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January 9, 2006

**VIA CMF AND HAND DELIVERY**

The Honorable Joseph J. Farnan, Jr.  
United States District Court  
for the District of Delaware  
844 King Street  
Wilmington, DE 19801

**Re:** • *Magten Asset Management Corp. and Law Debenture Trust Co. v. Northwestern Corp.*; C.A. No. 04-1494-JJF  
• *Magten Asset Management Corp. v. Paul Hastings Janofsky & Walker, LLP*; C.A. No. 04-1256-JJF  
• *Magten Asset Management Corp. v. Mike J. Hanson and Ernie J. Kindt*; C.A. No. 05-0499-JJF

Your Honor:

We write on behalf of Magten Asset Management Corp. and Law Debenture Trust, the plaintiffs in the above-captioned actions. On January 4, 2006, the parties conferred in accordance with Fed. R. Civ. P. 26(f). All parties agree that discovery in the above cases should proceed on a consolidated basis.

However, the parties disagree on when that discovery should commence and how long it should take:

**Defendants' Position**

It is the defendants' view that discovery should not commence until the Court has held a scheduling conference pursuant to Fed. R. Civ. P. 16 and entered a scheduling order. With respect to the terms of a scheduling order, the defendants propose a twelve-month period of discovery. With respect to C. A. No. 05-0499-JJF transferred to this District from the District of Montana, the defendants' position is that discovery should not begin until the Court has expressly lifted the stay pending transfer that was imposed by the transferring district.

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**Plaintiffs' Position**

It is the plaintiffs' position that the status conference held on October 21, 2005 satisfied the requirements of Rule 16 and that, by requesting and obtaining the Court's permission to proceed with another round of mediation, both the defendants and the Court recognize that the stay of the Montana action is no longer in effect. Since the parties have satisfied their obligations under Fed. R. Civ. P. 26(f), discovery under the applicable rules can and should proceed immediately. In this regard, the plaintiffs propose a six-month period for discovery that would allow approximately four months for fact discovery, followed by approximately two months for expert reports and discovery.

The plaintiffs therefore respectfully propose and submit the attached form of Scheduling Order for the Court's consideration, and anticipate that the defendants will submit their proposed version under separate cover. The plaintiffs' version contains blanks for those dates and times that are dependant upon the Court's calendar.

Counsel is available by telephone, should Your Honor have any questions.

Respectfully submitted,

Dale R. Dubé (#2863)

- and -

Bonnie Steingart  
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DRD:pb

Attachment

cc: Clerk of Court (via CMF)  
Bijan Amini, Esquire (via Federal Express)  
Jessie H. Austin, III, Esquire (via Federal Express)  
Elio Battista, Jr. Esquire



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